

ASSEMBLY BILL

No. 1427

**Introduced by Committee on Local Government (Achadjian (Chair),
Levine (Vice Chair), Alejo, Bradford, Gordon, Melendez, Mullin,
and Waldron)**

April 1, 2013

An act to amend Sections 56044, 56048, 56332, 56757, 56866, 56870, 57026, and 57118 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 1427, as introduced, Committee on Local Government. Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (act), provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts.

For purposes of the act, existing law defines an independent district or independent special district to include any special district having a legislative body all of whose members are elected by registered voters and landowners within the district, or whose members are appointed to fixed terms.

This bill would specify that the definition excludes any independent special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms.

The act specifies the procedures for selecting members for a local agency formation commission in each county. Existing law requires the independent special district selection committee to appoint 2 regular members and one alternate member to the commission. Existing law requires the appointed members to be elected or special district officers residing within the county.

This bill would require the appointed members to be elected or appointed members of the legislative body of an independent special district residing within the county.

The act prohibits a local agency formation commission from reviewing a reorganization that includes an annexation to any city in Santa Clara County of unincorporated territory that is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city and instead appoints the city council of that city as the conducting authority for the reorganization.

This bill would specify that these provisions apply to an annexation or a reorganization proposal.

The act requires petitions for a merger of a district which overlaps a city, or for the establishment of the district as a subsidiary district of the city, to be signed in a specified manner for a resident voter district. Existing law requires petitions for the dissolution of a district to be signed in a specified manner for a resident voter district.

This bill would instead prescribe the manner of signatures for a registered voter district.

The act requires the executive officer of the commission to give specified notice of the protest hearing to be held for a district formation. Existing law requires the notice to contain specified information including a statement of the time, date, and place of the protest hearing on the proposed change of organization or reorganization and requires the protest hearing to be held on a specific date if the uninhabited territory is proposed to be annexed to a city with specified residents and population.

This bill would delete the requirement that a protest hearing be held on a specific date for such an uninhabited territory and would otherwise make that uninhabited territory subject to the existing non-specific date requirement.

This bill would also make other technical and conforming changes and correct erroneous references.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 56044 of the Government Code is amended to read:

56044. “Independent district” or “independent special district” includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, *and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms.* “Independent special district” does not include any district excluded from the definition of district contained in Sections 56036 and 56036.6.

SEC. 2. Section 56048 of the Government Code is amended to read:

56048. ~~(a)~~—“Landowner” or “owner of land” means any *of the following*:

(a) *Each* person shown as the owner of land on the last equalized assessment roll prepared by the county at the time the determination is required to be made pursuant to the requirements of this division. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as the owner of land on the next equalized assessment roll.

(b) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as the purchaser.

(c) Any public agency owning land other than highways, rights-of-way, easements, waterways, or canals.

SEC. 3. Section 56332 of the Government Code is amended to read:

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer’s place. Those districts shall include districts located wholly within the county and those containing territory within the county representing

1 50 percent or more of the assessed value of taxable property of the
2 district, as shown on the last equalized county assessment roll.
3 Each member of the committee shall be entitled to one vote for
4 each independent special district of which he or she is the presiding
5 officer. Members representing a majority of the eligible districts
6 shall constitute a quorum.

7 (b) The executive officer shall call and give written notice of
8 all meetings of the members of the selection committee. A meeting
9 shall be called and held under one of the following circumstances:

10 (1) Whenever the executive officer anticipates that a vacancy
11 will occur within the next 90 days among the members or alternate
12 member representing independent special districts on the
13 committee.

14 (2) Whenever a vacancy exists among the members or alternate
15 member representing independent special districts upon the
16 commission.

17 (3) Upon receipt of a written request by one or more members
18 of the selection committee representing districts having 10 percent
19 or more of the assessed value of taxable property within the county,
20 as shown on the last equalized county assessment roll.

21 (c) (1) If the executive officer determines that a meeting of the
22 special district selection committee, for the purpose of selecting
23 the special district representatives or for filling a vacancy, is not
24 feasible, the executive officer may conduct the business of the
25 committee in writing, as provided in this subdivision. The executive
26 officer may call for nominations to be submitted in writing within
27 30 days. At the end of the nominating period, the executive officer
28 shall prepare and deliver, or send by certified mail, to each
29 independent special district one ballot and voting instructions. If
30 only one candidate is nominated for a vacant seat, that candidate
31 shall be deemed selected, with no further proceedings.

32 (2) As an alternative to the delivery by certified mail, the
33 executive officer, with the prior concurrence of the district, may
34 transmit the ballot and voting instructions by electronic mail,
35 provided that the executive officer shall retain written evidence of
36 the receipt of that material.

37 (3) The ballot shall include the names of all nominees and the
38 office for which each was nominated. The districts shall return the
39 ballots to the executive officer by the date specified in the voting

1 instructions, which date shall be at least 30 days from the date on
2 which the executive officer mailed the ballots to the districts.

3 (4) If the executive officer has transmitted the ballot and voting
4 instructions by electronic mail, the districts may return the ballots
5 to the executive officer by electronic mail, provided that the
6 executive officer retains written evidence of the receipt of the
7 ballot.

8 (5) Any ballot received by the executive officer after the
9 specified date is invalid. The executive officer shall announce the
10 results of the election within seven days of the specified date.

11 (d) The selection committee shall appoint two regular members
12 and one alternate member to the commission. The members so
13 appointed shall be elected or appointed *members of the legislative*
14 *body of an independent special district-officers* residing within the
15 county but shall not be members of the legislative body of a city
16 or county. If one of the regular district members is absent from a
17 commission meeting or disqualifies himself or herself from
18 participating in a meeting, the alternate district member may serve
19 and vote in place of the regular district member for that meeting.
20 ~~The representation Service on the commission by a regular district~~
21 ~~member who is a special district officer shall not disqualify, or be~~
22 ~~cause for disqualification of, the member from acting on a proposal~~
23 ~~proposals affecting the special district on whose legislative body~~
24 ~~the member serves. The special district selection committee may,~~
25 ~~at the time it appoints a member or alternate, provide that the~~
26 ~~member or alternate is disqualified from voting on proposals~~
27 ~~affecting the district of which the member is a representative on~~
28 ~~whose legislative body the member serves.~~

29 (e) If the office of a regular district member becomes vacant,
30 the alternate member may serve and vote in place of the former
31 regular district member until the appointment and qualification of
32 a regular district member to fill the vacancy.

33 (f) For purposes of this section, “executive officer” means the
34 executive officer or designee as authorized by the commission.

35 SEC. 4. Section 56757 of the Government Code is amended
36 to read:

37 56757. (a) The commission shall not review *an annexation or*
38 *a reorganization proposal* that includes an annexation to any city
39 in Santa Clara County of unincorporated territory that is within
40 the urban service area of the city if the *annexation or* reorganization

1 *proposal* is initiated by resolution of the legislative body of the
2 city.

3 (b) The city council shall be the conducting authority for the
4 *annexation or reorganization proposal* and the proceedings for the
5 *annexation or reorganization proposal* shall be initiated and
6 conducted as nearly as may be practicable in accordance with Part
7 4 (commencing with Section 57000).

8 (c) The city council, in adopting the resolution approving the
9 *annexation or reorganization proposal*, shall make all of the
10 following findings:

11 (1) That the unincorporated territory is within the urban service
12 area of the city as adopted by the commission.

13 (2) That the county surveyor has determined the boundaries of
14 the proposal to be definite and certain, and in compliance with the
15 road annexation policies of the commission. The city shall
16 reimburse the county for the actual costs incurred by the county
17 surveyor in making this determination.

18 (3) That the proposal does not split lines of assessment or
19 ownership.

20 (4) That the proposal does not create islands or areas in which
21 it would be difficult to provide municipal services.

22 (5) That the proposal is consistent with the adopted general plan
23 of the city.

24 (6) That the territory is contiguous to existing city limits.

25 (7) That the city has complied with all conditions imposed by
26 the commission for inclusion of the territory in the urban service
27 area of the city.

28 (d) All *annexations or reorganizations* which involve territory
29 for which the land use designation in the general plan of the city
30 has changed from the time that the urban service area of the city
31 was last adopted by the commission, and which are processed by
32 a city pursuant to this section shall be subject to an appeal to the
33 commission upon submission of a petition of appeal, signed by at
34 least 50 registered voters in the county.

35 (e) An appeal to the commission may also be made by
36 submission of a resolution of appeal adopted by the legislative
37 body of a special district solely for the purpose of determining
38 whether some or all of the territory contained in the *annexation*
39 *or reorganization proposal* should also be annexed or detached
40 from that special district.

(f) Any petition submitted under subdivision (d) or resolution submitted under subdivision (e) shall be submitted to the executive officer within 15 days of the adoption by the city council of the resolution approving the annexation. The executive officer shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

SEC. 5. Section 56866 of the Government Code is amended to read:

56866. Petitions for a merger of a district which overlaps a city, or for the establishment of the district as a subsidiary district of the city, shall be signed as follows:

(a) For a ~~resident~~ *registered* voter district, by either of the following:

(1) Five percent of the registered voters of the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

(b) For a landowner-voter district, by either of the following:

(1) Five percent of the number of landowner-voters within the district who also own not less than 5 percent of assessed value of land within the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

SEC. 6. Section 56870 of the Government Code is amended to read:

56870. Except as otherwise provided in Section 56871, petitions for the dissolution of a district shall be signed as follows:

(a) For ~~resident~~ *registered* voter districts, by either of the following:

(1) Not less than 10 percent of the registered voters within the district.

(2) Not less than 10 percent of the number of landowners within the district who also own not less than 10 percent of the assessed value of land within the district.

(b) For landowner-voter districts, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

SEC. 7. Section 57026 of the Government Code is amended to read:

1 57026. The notice required to be given by Section 57025 shall
2 contain all of the following information:

3 (a) A statement of the distinctive short form designation assigned
4 by the commission to the proposal.

5 (b) A statement of the manner in which, and by whom,
6 proceedings were initiated. However, a reference to the proponents,
7 if any, shall be sufficient where proceedings were initiated by a
8 petition.

9 (c) A description of the exterior boundaries of the subject
10 territory.

11 (d) A description of the particular change or changes of
12 organization proposed for each of the subject districts or cities and
13 new districts or new cities proposed to be formed, and any terms
14 and conditions to be applicable. The description may include a
15 reference to the commission's resolution making determinations
16 for a full and complete description of the change of organization
17 or reorganization, and the terms and conditions.

18 (e) A statement of the reason or reasons for the change of
19 organization or reorganization as set forth in the proposal submitted
20 to the commission.

21 (f) ~~(1) Except as otherwise provided in paragraph (2), a~~
22 ~~statement of the time, date, and place of the protest hearing on the~~
23 ~~proposed change of organization or reorganization.~~

24 ~~(2) Notwithstanding paragraph (1), if inhabited territory is~~
25 ~~proposed to be annexed to a city with more than 100,000 residents~~
26 ~~which is located in a county with a population of over 4,000,000~~
27 ~~the date shall be at least 90 days, but not more than 105 days, after~~
28 ~~the date of adoption of the resolution initiating the proceedings.~~
29 ~~The resolution shall specify a date 90 days prior to the hearing~~
30 ~~when registered voters may begin to file protests.~~

31 (g) If the subject territory is inhabited and the change of
32 organization or reorganization provides for the submission of
33 written protests, a statement that any owner of land within the
34 territory, or any registered voter residing within the territory, may
35 file a written protest against the proposal with the executive officer
36 of the commission at any time prior to the conclusion of the hearing
37 by the commission on the proposal.

38 (h) If the subject territory is uninhabited and the change of
39 organization or reorganization provides for submission of written
40 protests, a statement that any owner of land within the territory

1 may file a written protest against the proposal with the executive
2 officer of the commission at any time prior to the conclusion of
3 the hearing by the commission on the proposal.

4 SEC. 8. Section 57118 of the Government Code is amended
5 to read:

6 57118. In any resolution ordering a change of organization or
7 reorganization subject to the confirmation of the voters, the
8 commission shall determine that an election will be held:

9 (a) Within the territory of each city or district ordered to be
10 incorporated, formed, disincorporated, dissolved or consolidated.

11 (b) Within the entire territory of each district ordered to be
12 merged with or established as a subsidiary district of a city, or both
13 within the district and within the entire territory of the city outside
14 the boundaries of the district.

15 (c) If the executive officer certifies a petition pursuant to Section
16 57108 or 57109, within the territory of the district ordered to be
17 merged with or established as a subsidiary district of a city.

18 (d) Within the territory ordered to be annexed or detached.

19 (e) If ordered by the commission pursuant to Section 56876 or
20 56759, both within the territory ordered to be annexed or detached
21 and within all or the part of the city or district which is outside of
22 the territory.

23 (f) If the election is required by Section ~~57114~~ *subdivision (b)*
24 *of Section 57077.4*, separately within the territory of each affected
25 district that has filed a petition meeting the requirements of
26 *subdivision (b) of Section ~~57114~~ 57077.4*.